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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/027,903

12/20/2001

Nam Dinh Pham

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09/08/2006

DECHERT LLP

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EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/027,903

Applicant(s)

PHAM, NAM DINH

Examiner

Jocelyn Greimel

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/16/02</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. This communication is in response to Applicant's application of December 20, 2001. Claims 1-40 are pending and are presented to be examined upon their merits. Claims 1 and 21 are independent claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Lange (US Patent No. 6,321,212).** In reference to claims 1 and 21, Lange discloses a method and system of administering an investment contract between at least two investors comprising:

- a. associating a contract with a first investor, wherein the contract is based on at least one underlying commodity having a market value and wherein the first investor does not hold the underlying commodity or agree to buy or sell the underlying commodity (col. 10, lines 43-67);
- b. matching the contract with a second investor thereby creating an active contract, wherein the second investor does not hold the underlying commodity or

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agree to buy or sell the underlying commodity (col. 6, lines 48-67; col. 10, lines 43-67);

c. at least temporarily holding first investor funds and second investor funds associated with the contract (col. 7, lines 4-62);

d. determining which one of the first and second investor is to receive a payoff based on the market value of the underlying commodity upon expiration of the contract in relation to one of a target price and a target price range (col. 6, lines 46-67; col. 7 – col. 8, line 17);

e. paying off one of the first and second investor upon expiration of the contract, wherein expiration of the contract is based on at least one of a deviation from a target price range and a specified maturity date (col. 6, lines 46-67; col. 7 – col. 8, line 17).

4. In reference to claims 2-20 and 22-40, Lange discloses a method and system of administering an investment contract between at least two investors as below. Similar items and actions may be grouped together. Lange discloses among its various embodiments:

f. wherein a price movement having a direction is defined by comparing the target price to the market value of the underlying commodity upon expiration of the contract, wherein the contract specifies an expiration date, a first and second expected direction associated with the first and second investor and a fixed lump-sum payoff, and wherein the payoff is selectively transferred to one of the first

and second investor upon expiration of the contract based on the direction of the price movement of the commodity in relation to the first and second expected direction (col. 6, lines 46-67; col. 7 – col. 8, line 17);

g. wherein a price movement having a number of ticks and direction is defined by comparing the target price to the market value of the underlying commodity upon expiration of the contract, wherein the contract specifies an expiration time, a first and second expected direction associated with the first and second investor and dollars per tick, and wherein the payoff is calculated and transferred to one of the first and second investor upon expiration of the contract based on the direction of the price movement, the number of ticks and the dollars per tick (col. 6, lines 46-67; col. 7 – col. 8, line 17);

h. wherein the contract further specifies a cap, and wherein the payoff transferred to one of the first and second investor is limited by the cap (col. 8, lines 4-64);

i. wherein the commodity has a market value at expiration of the contract, and wherein the contract specifies an expiration date, a first target price range associated with the first investor, a second target price range associated with the second investor and a fixed lump-sum payoff, and wherein the fixed lump-sum payoff is transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the first and second price ranges (col. 6, lines 46-67; col. 7 – col. 8, line 17);

j. wherein the fixed lump-sum payoff is transferred to the first investor if the market value of the commodity upon expiration of the contract falls within the first target price range (col. 8, lines 4-64);

i. wherein the fixed lump-sum payoff is transferred to the second investor if the market value of the commodity upon expiration of the contract falls within the second target price range (col. 8, lines 4-64);

k. wherein the commodity has a market value upon expiration of the contract, wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor and fixed lump-sum payoff, and wherein the fixed lump-sum payoff is transferred to one of the first and second investor based on one of the market value of the commodity upon expiration of the contract in relation to the price range (col. 6, lines 46-67; col. 7 – col. 8, line 17);

l. wherein the fixed lump-sum payoff is transferred to the first investor if the market value of the commodity reaches the upper cap prior to the expiration date;

ii. wherein the fixed lump-sum payoff is transferred to the second investor if the market value of the commodity reaches one of the lower cap prior to the expiration date:

iii. wherein the fixed lump-sum payoff is transferred to the first investor on the expiration date if the market value of the commodity on the

expiration date falls within a portion of the price range associated with the first investor;

iv. wherein the fixed lump-sum payoff is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a portion of the price range associated with the second investor (col. 8, lines 4-64);

m. wherein the commodity has a market value at expiration of the contract, and wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor, a target price and dollars-per-tick, and wherein a payoff is calculated and transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the price range (col. 6, lines 46-67; col. 7 – col. 8, line 17);

n. wherein the payoff transferred to one of the first and second investor is limited by one of the first and second cap;

v. wherein the payoff is transferred to the first investor if the market value of the commodity reaches the first cap prior to the expiration date;

vi. wherein the payoff is transferred to the second investor if the market value of the commodity reaches the second cap prior to the expiration date;

- vii. wherein the payoff is transferred to the first investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associated with the first investor;
- viii. wherein the payoff is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick;
- ix. wherein the payoff is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associated with the second investor;
- o. wherein the payoff is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick (col. 6, lines 46-67; col. 7 – col. 8, line 17).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached at (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
August 31, 2006



ELLA COLBERT  
PRIMARY EXAMINER